

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

EL RANCHO UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012100170

ORDER DENYING REQUEST FOR  
CONTINUANCE

On October 9, 2012, Student filed a request to cancel the mediation and continue the hearing to an unspecified date in January. The reason given for the continuance was that Student's parent was on disability income and wanted to save money to try to hire an attorney. On October 15, 2012, District filed an opposition on the ground that 90 days was not a reasonable amount of time to obtain an attorney when there was no information about Student's parent's current efforts to obtain counsel. District requested a status conference instead of granting the continuance.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All hearing dates and timelines shall proceed as calendared. Student's parent did not provide a suggested hearing date as requested by OAH. More importantly, although attempting to obtain legal representation may in some circumstances be good cause for a continuance, in this case Student's parent is arguing that they need time to save money for an attorney. Student's request does not provide enough information to determine whether that is realistic in a short time frame, nor does it include any information about past and current efforts to obtain an attorney. OAH cannot delay the hearing indefinitely because although parties have a right to be accompanied by an attorney, an attorney is not required for a parent to proceed to hearing. Although District would like a trial setting conference, trial setting conferences are set only in unusual cases. Here, there is a prehearing conference already on calendar, at which time the parties may address hearing scheduling. The parties should prepare for the prehearing conference by filing the prehearing conference statements as listed in the initial scheduling order, and may address the possible need to continue the hearing to specific dates at that time of the prehearing conference.

IT IS SO ORDERED.

Dated: October 16, 2012

/s/

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RICHARD T. BREEN

Presiding Administrative Law Judge  
Office of Administrative Hearings